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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,509	02/17/2000	Manish Gupta	YOR9-2000-0004	6746
30743	7590	12/19/2003	EXAMINER	
WHITHAM, CURTIS & CHRISTOFFERSON, P.C. 11491 SUNSET HILLS ROAD SUITE 340 RESTON, VA 20190			FELTEN, DANIEL S	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

/

<b>Office Action Summary</b>	Application No.	Applicant(s) GUPTA ET AL
	09/505,509 Examiner Daniel S Felten	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 February 2000.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ . | 6) <input type="checkbox"/> Other: _____                                    |

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## DETAILED ACTION

### ***Information Disclosure Statement***

1. The information disclosure statement filed February 17, 2000 fails to comply with 37 CFR 1.98(a)(2), which requires a **legible** copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered because the copies of prior art that were sent are not legible.

### ***Specification***

1. The disclosure is objected to because of the following informalities:

**Re page 14:**

Delete "*Having thus described our invention, what we claim as new and desire to secure by Letters Patent is as follows:*" on the Claims page. Appropriate correction is required.

2. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. The term "quickly" in claim 1 is a relative term which renders the claim indefinite. The term "quickly" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Is there are parameter for "quickly" in the context of the claim?

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland et al ("Friedland", US 6,449,601).

**Re claim 1:**

Friedland discloses a distributed method for processing auction traffic using one or more servers at a plurality of nodes in a distributed processing system (see Friedland, fig. 3, Abstract)

using a current local winner determination method at each of the nodes to identify and candidate winning bids (see Friedland, col. 13, ll. 63 to col. 14, ll. 43); and

using a current global (remote) winner determination method to determine from the candidate winning bids from each of nodes a current set of winners (see Friedland, col. 3, ll. 10-67).

Friedland fails to disclose identifying loser bids. However, it would be obvious to an artisan at the time of the invention to recognize that the determination of winning bids (or winning candidates) would include a determination of which bids are losers and should be filtered out. Thus it would have been obvious for an artisan at the time of the invention to identify loser bids within the bidding filter.

**Re claim 2:**

Friedland discloses wherein the auction is an open-cry auction (see Frieland, Abstract fig. 3, col. 7, ll. 61+).

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**Re claim 3:**

Friedland discloses wherein the current local winner determination method comprises the steps of:

receiving a new bid( $v,q$ ) at a node, where  $v$  denotes the price per unit and  $q$  denotes the quantity desired (see Friedland, col.5, ll. 13+; col. 1, ll. 60+);

checking to see if the new bid ranks in the top  $[N/q]$  bids, in terms of price/unit bid value, amongst all the bids asking for quantity  $q$  whose information is available to this process, where  $[x]$  stands for the greatest integer less than or equal to  $x$  (see Friedland, col. 2, ll. 12+);

taking the new bid along with the set of  $[N/q]$  bids that have been processed and determining a new set of top  $[N/q]$  bids (see Friedland, col. 17, ll. 3+);

determining if bid( $v,q$ ) is in the top  $[N/q]$  bids and, if it is not, and declaring it a loser bid, but if so, declaring it a candidate bid (see Friedland, col. 17, ll. 3+).

**Re claim 4:**

Friedland further discloses comprising the steps of holding the candidate bid at the node for a time,  $T$ ; and if by time  $T$ , through an arrival of another bid, a candidate bid loses its position amongst the top  $[N/q]$  highest bids, declaring the bid a loser bid (see Friedland, col. 17, ll. 3 to col. 18, ll. 2);

otherwise, declaring the bid a winner candidate and making the bid accessible for further processing by the current global winner determination method (see Friedland, col. 17, ll. 3 to col. 18, ll. 2).

**Re claim 5:**

Friedland discloses wherein the current global winner determination method comprises the steps of receiving new candidate winning bid from a node  $\text{bid}(v,q)$  (see Friedland, col. 3, ll. 23-29; and col. 17, ll. 3 to col. 18, ll. 2);

    taking the candidate winning bid along with the set of all bids that have been processed and determines a new set of winners (see Friedland, col. 3, ll. 23-29; and col. 17, ll. 3 to col. 18, ll. 2);

    determining whether the new candidate  $\text{bid}(v,q)$  is a winner (see Friedland, col. 3, ll. 23-29; and col. 17, ll. 3 to col. 18, ll. 2); and  
    notifying the bidder of  $\text{bid}(v,q)$  as to whether they are a winner (see Friedland, col. 3, ll. 23-29; and col. 17, ll. 3 to col. 18, ll. 2).

**Re claim 6:**

Friedland discloses wherein the current local winner determination method comprises the steps of receiving a new  $\text{bid}(v,q)$  at a node, where  $v$  denotes the price per unit and  $q$  denotes the quantity desired (see Friedland, col. 5, ll. 13+; and col. 1, ll. 60+);

    considering a set of bids using a set of pre-specified auction rules and selecting winners for auctioning  $N+x$  copies of the item on sale; and determination whether the  $\text{bid}(v,q)$  is a candidate winner bid (see col. 2, ll. 12+; col. 13, ll. 23+).

**Re claim 7:**

Friedland discloses wherein the current global winner determination method comprises the steps of:

receiving new candidate winning bid from a node bid(v,q) (see col. 3, ll. 10-67);  
taking the candidate winning bid along with the set of all bids that have been processed and determines a new set of winners (see col. 3, ll. 10-67);  
determining whether the new candidate bid(v,q) is a winner (see col. 3, ll. 10-67);  
and notifying the bidder of bid(v,q) as to whether they are a winner (see col. 3, ll. 10-67).

**Re claim 8:**

The notoriously old and well known Descending auctions or “Reverse actions” are those in which bid price for an item decreases rather than increases for each round of bidding. Official notice is taken of descending auctions because an artisan at the time of the invention would have found that the employment of a descending auction would have been an obvious extension to the teaching of Friedland being an obvious alternative to high bid auctions and thus an obvious expedient well within the ordinary skill in the art.

**Re claim 9:**

Friedland wherein the current local winner determination method comprises the steps of receiving a bid (q) for processing, where q is the quantity desired at going price p (see Friedland, col. 2, ll. 12+; and col. 3, ll. 23+);

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determining whether the bid is in the first  $[R/q]$  bids, asking for quantity q at price p, where  $[x]$  stands for the greatest integer less than or equal to x and R is a currently remaining quantity on auction (see Friedland, col. 2, ll. 12+; and col. 3, ll. 23+);

if the bid is in the first  $[R/q]$  bids, asking for quantity q at the going price p, then declaring the bid a candidate winner bid; and making the candidate winner bid available for further processing by the current global winner determination method (see Friedland, col. 2, ll. 12+; and col. 3, ll. 23+).

**Re claim 10:**

further comprising the steps of giving bids processed by the method a time stamp of arrival; and determining whether the time stamp, if it exists on the bid, is greater than or equal to the time stamp of any bid, asking for quantity q at going price p, that has been processed by the method in the past (see Friedland, col. 2, ll. 12+; and col. 3, ll. 23+).

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***Conclusion***

1. A list of relevant prior art appears below not relied upon in this Office Action:

**US Patents:**

Fraser et al (US 5,905,974) discloses an automated auction protocol processor

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ***Daniel S. Felten*** whose telephone number is (703) 305-0724. The examiner can normally be reached between the hours of 7:00AM to 5:30PM Monday-Thursday. Any inquiry of a general nature relating to the status of this application or its proceedings should be directed to the Customer Service Office (703) 306-5771, or the examiner=s supervisor ***Vincent Millin*** whose telephone number is (703) 308-1065.

Response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

for formal communications intended for entry, or (703) 305-7687, for informal or draft communications, please label A Proposed or A Draft. Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [\[daniel.felten@uspto.gov\]](mailto:[daniel.felten@uspto.gov]).

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All Internet e-mail communications will be made of record in the application file.

PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1 195 OG 89.



**DSF**

December 11, 2003



VINCENT MILLIN  
SUPERVISORY PATENT EXAMINER  
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